

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2000-577-C - ORDER NO. 2001-109

FEBRUARY 6, 2001

IN RE: Application of American Prepaid Telephone)	ORDER DENYING
Service, LLC DBA South Carolina Prepaid)	REQUEST FOR INTERIM
Telephone Service for a Certificate of Public)	AUTHORITY
Convenience and Necessity to Provide Local)	
Exchange Telecommunications Services)	
within the State of South Carolina.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a request from American Prepaid Telephone Service, LLC d/b/a South Carolina Prepaid Telephone Service (American Prepaid Telephone Service or the Company). In its request, American Prepaid Telephone Service requested that the Commission grant the Company interim authority to operate under the terms of its proposed Tariff that was submitted with American Prepaid Telephone Service's Application. The Company's request is made pursuant to the Telecommunications Act of 1996, particularly 47 U.S.C. Section 253.

In its request, American Prepaid Telephone Service states that because the Company cannot offer its telecommunications services in South Carolina until after it receives certification, the delay to which the Company is being subjected is contrary to 47 U.S.C. Section 253. Furthermore, the Company asserts that under the present circumstances, it is being kept out of the market completely. American Prepaid Telephone Service also alleges that if it is prohibited from operating for any longer than

the shortest time in which any competitor had its application approved, then the Commission is not acting in a competitively neutral manner as required by 47 U.S.C. Section 253(b). Moreover, American Prepaid Telephone Service asserts in its request that a three or more month delay is not “necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.”

We have reviewed the Company’s request for interim authority and we find the request should be denied. While 47 U.S.C. Section 253(a) does state “no state or local statute or regulation, or other state or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide ... intrastate telecommunications service”, this statute also grants states authority to oversee and regulate entities who desire to provide telecommunications services in individual states. 47 U.S.C. Section 253(b) states, “Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254 of this section, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.” We find that Section 253(b) grants us the authority to safeguard the public interest and oversee the provisioning of telecommunications services in South Carolina.

S.C. Code Ann. Section 58-9-280 (Supp. 2000) gives the Commission the authority to grant a certificate to operate as a telephone utility “after notice and an opportunity to be heard.” We take very seriously our responsibility to ascertain from

potential telephone utilities who seek to operate in South Carolina as much relevant information as possible to determine the Company's financial, technical, and managerial ability to provide telecommunications services in South Carolina. We also seek to determine whether the Company will comply with S.C. Code Ann. Section 58-9-280 (b)(2) – (5)(Supp. 2000). It is the Commission's responsibility to protect the interests, safety, and welfare of the consumers of this State. Additionally, a certification hearing allows the Applicant to present evidence regarding its ability to provide telecommunications services and it affords the Commission and other parties in the case the opportunity to cross examine the applicant regarding the specifics and accurateness of its testimony and/or exhibits. We find that both federal and state law impose a duty upon this Commission to ensure that entities who seek to provide telecommunications services in South Carolina have the necessary resources to provide such services and are willing to abide by all applicable laws.

IT IS THEREFORE ORDERED THAT:

1. American Prepaid Telephone Service's request for interim authority is denied.

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2. This Order shall remain in full force and effect until further Order of this Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)